

IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION (COLUMBUS)

D.S. et al., :  
Plaintiffs, : Case No. 2:18-cv-00416-ALM-KAJ  
v. : Judge Marbley  
Sequel Pomegranate Health Systems, LLC : Magistrate Jolson  
Defendant. :

AGREED ORDER COMPELLING PRODUCTION OF DOCUMENTS

On or about May 23, 2018, Plaintiffs D.S. et al., issued a Subpoena to Produce Documents to Franklin County Children Services, Inc. (A copy of the Subpoena is attached hereto as Exhibit A). The Subpoena requested that Franklin County Children's Services Produce the following documents:

- Any and all files, documents, or otherwise, pertaining to D.S. including but not limited to, any child abuse and/or neglect investigation regarding D.S. ; and
- Any and all complaints, allegations, reports, parent/guardian disposition letters, investigations, assessments, etc., regarding Sequel Pomegranate Health Systems, LLC, including but not limited to, child abuse and/or neglect.
- Any and all files, documents, or otherwise, pertaining to J. J..
- Any and all files, documents, or otherwise, pertaining to J. H..
- Any and all files, documents, or otherwise, pertaining to O.K..
- Any and all files, documents, or otherwise, pertaining to O Doe, a delinquent who resided in Sathappan Dorm at Sequel Pomegranate Health Systems, LLC at the same time D.S. resided there.
- Any and all files, documents, or otherwise, pertaining to R Doe, a delinquent who resided in Sathappan Dorm at Sequel Pomegranate Health Systems, LLC at the same time D.S. resided there.

- Any and all files, documents, or otherwise, pertaining to J.H., including but not limited to, all reports, allegations, and complaints made by J.H. while he was at Sequel Pomegranate Health Systems, LLC.

On or about June 6, 2018, counsel for Franklin County Children's Services and Plaintiffs and Defendant Sequel Pomegranate Health Systems, LLC agreed that Franklin County Children's Services would produce the following documents in lieu of filing a Motion to Quash:

- Complete FCCS file for D.S.
- Partial Files for J.J., J.H., and O.K.
- A copy of the FCCS investigation regarding the incident that is the subject of the pending litigation with the referral source being redacted;
- A copy of a spreadsheet, with names and other identifying information redacted, listing complaints filed with FCCS related to Sequel Pomegranate.

Based on the foregoing agreement, this Court hereby orders the production of the foregoing documents by FCCS to Plaintiffs D.S., as agreed on or before June 30, 2018.

Date: July 20, 2018

s/Kimberly A. Jolson

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KIMBERLY A. JOLSON  
UNITED STATES MAGISTRATE JUDGE

AGREED TO BY:

KEMP, SCHAEFFER & ROWE  
CO., LPA

BY: /s/ Erica Ann Probst

Erica Ann Probst (0073486)

88 W. Mound Street

Columbus, Ohio 43215

Telephone: (614) 224-2678

Facsimile: (614) 469-7170

[erica@ksrlegal.com](mailto:erica@ksrlegal.com)

/s/ Matthew L. Schrader (via email authorization 6/28/2018)

Matthew L. Schrader (0074320)  
Reminger Co., LPA  
200 Civic Center Drive, Suite 800  
Columbus, Ohio 43215  
Telephone: (614) 232-2631  
Facsimile: (614) 232-2410  
[mschrader@reminger.com](mailto:mschrader@reminger.com)

**RON O'BRIEN**  
**PROSECUTING ATTORNEY**  
**FRANKLIN COUNTY, OHIO**

/s/ Nick A. Soulas, Jr. (via email authorization 6-28-2018)

Nick A. Soulas, Jr. 0062166  
First Assistant Prosecuting Attorney  
Civil Division  
373 South High Street, 13<sup>th</sup> Floor  
Columbus, Ohio 43215-6318  
(614) 525-3520  
(614) 525-6013 FAX  
[nsoulas@franklincountyohio.gov](mailto:nsoulas@franklincountyohio.gov)

AO 88B (Rev. 02/14) Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises in a Civil Action

## UNITED STATES DISTRICT COURT

for the

Southern District of Ohio

D.S., et al.

Plaintiff

v.

Sequel Pomegranate Health Systems, LLC

Defendant

Civil Action No. 2:18-cv-00416

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS  
OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION

To: Franklin County Children Services, c/o Anne C. O'Leary, 855 W. Mound St., Columbus, Ohio 43223

(Name of person to whom this subpoena is directed)

☒ **Production: YOU ARE COMMANDED** to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material: See Exhibit "A"

Place: Kemp, Schaeffer & Rowe Co., LPA  
88 W. Mound St.  
Columbus, Ohio 43215

Date and Time:

06/08/2018 10:00 am

☐ **Inspection of Premises: YOU ARE COMMANDED** to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:

Date and Time:

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: \_\_\_\_\_

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

Attorney's signature

The name, address, e-mail address, and telephone number of the attorney representing (name of party) Erica Probst  
and Lauren A. Kemp, Kemp, Schaeffer & Rowe Co., LPA, who issues or requests this subpoena, are:  
88 W. Mound St., Columbus, Ohio 43215, erica@ksrlegal.com, lauren@ksrlegal.com, (614) 224-2678

## Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things or the inspection of premises before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

AO 88B (Rev. 02/14) Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises in a Civil Action (Page 2)

Civil Action No. 2:18-cv-00416

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)*

I received this subpoena for *(name of individual and title, if any)* \_\_\_\_\_

on *(date)* \_\_\_\_\_

☒ I served the subpoena by delivering a copy to the named person as follows: \_\_\_\_\_

*Certified mail*

on *(date)* *5/23/18* ; or

☐ I returned the subpoena unexecuted because: \_\_\_\_\_

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of \$ \_\_\_\_\_

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ 0.00

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

*Erika Ann Probst*

Server's signature

*ERIKA ANN PROBST*

Printed name and title

*88 W. Howard St. Columbus OH 43205*

Server's address

Additional information regarding attempted service, etc.: \_\_\_\_\_

**Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)****(c) Place of Compliance.**

(1) *For a Trial, Hearing, or Deposition.* A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
  - (i) is a party or a party's officer; or
  - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) *For Other Discovery.* A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

**(d) Protecting a Person Subject to a Subpoena; Enforcement.**

(1) *Avoiding Undue Burden or Expense; Sanctions.* A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) *Command to Produce Materials or Permit Inspection.*

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) *Quashing or Modifying a Subpoena.*

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

**(e) Duties in Responding to a Subpoena.**

(1) *Producing Documents or Electronically Stored Information.* These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) *Claiming Privilege or Protection.*

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) *Contempt.*

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.



**EXHIBIT "A"**

- Any and all files, documents, or otherwise, pertaining to David Matthew Shenkman (Mr. Shenkman), including but not limited to, any child abuse and/or neglect investigation regarding Mr. Shenkman; and
- Any and all complaints, allegations, reports, parent/guardian disposition letters, investigations, assessments, etc., regarding Sequel Pomegranate Health Systems, LLC, including but not limited to, child abuse and/or neglect.
- Any and all files, documents, or otherwise, pertaining to Jejuan Jones.
- Any and all files, documents, or otherwise, pertaining to Javion Howard.
- Any and all files, documents, or otherwise, pertaining to Omarion King.
- Any and all files, documents, or otherwise, pertaining to Oliver, a delinquent who resided in Sathappan Dorm at Sequel Pomegranate Health Systems, LLC at the same time Mr. Shenkman resided there.
- Any and all files, documents, or otherwise, pertaining to Robert, a delinquent who resided in Sathappan Dorm at Sequel Pomegranate Health Systems, LLC at the same time Mr. Shenkman resided there.
- Any and all files, documents, or otherwise, pertaining to James Hardemon, Jr., including but not limited to, all reports, allegations, and complaints made by Mr. Hardemon, Jr. while he was at Sequel Pomegranate Health Systems, LLC.

ATTORNEYS AT LAW

Harold R. Kemp (1950-2011) • Michael N. Schaeffer • Steven D. Rowe • Jacqueline L. Kemp • Richard G. Murray, II  
Erica Ann Probst • Scott N. Schaeffer • Julia L. Leveridge • Lauren A. Kemp

{00197332-1}

KEMP, SCHAEFFER & ROWE

PHONE: 614.224.2678



88 WEST MOUND STREET  
COLUMBUS, OHIO 43215

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

## 1. Article Addressed to:

Franklin County Children  
Services  
855 West Mound Street  
Columbus, Ohio 43223

## 2. Article Number

(Transfer from service label)

7017 1070 0000 4119 5791

PS Form 3811, July 2013

Domestic Return Receipt

**COMPLETE THIS SECTION ON DELIVERY**

## A. Signature


☐ Agent☐ Addressee

## B. Received by (Printed Name)

K. Jett

## C. Date of Delivery

5/24/18

- D. Is delivery address different from item 1? ☐ Yes  
If YES, enter delivery address below: ☐ No

## 3. Service Type

☐ Certified Mail®☐ Priority Mail Express™☒ Registered☐ Return Receipt for Merchandise☐ Insured Mail☐ Collect on Delivery

## 4. Restricted Delivery? (Extra Fee)

☐ Yes

**U.S. Postal Service™**  
**CERTIFIED MAIL® RECEIPT**  
Domestic Mail Only

For delivery information, visit our website at [www.usps.com](http://www.usps.com)®**OFFICIAL USE**

## Certified Mail Fee

\$

## Extra Services &amp; Fees (check box, add fee as appropriate)

☐ Return Receipt (hardcopy) \$☐ Return Receipt (electronic) \$☐ Certified Mail Restricted Delivery \$☐ Adult Signature Required \$☐ Adult Signature Restricted Delivery \$

## Postage

\$

## Total Postage and Fees

\$

Sent To Children Services

Street and Apt. No., or PO Box No.

City, State, ZIP+4®

PS Form 3800, April 2015 PSN 7530-02-000-9047

See Reverse for Instructions

Postmark  
Here

5-23-18

7017 1070 0000 4119 5791